

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

GIOVANNI GOSCILA,

Case No.

Plaintiff,

## AT LAW AND AT ADMIRALTY

VS.

**SEAMAN'S COMPLAINT IN REM AND  
IN PERSONAM FOR PERSONAL  
INJURIES, WAGES, CLAIM FOR  
MAINTENANCE AND CURE – ALL  
WITHOUT PAYMENT OF COSTS, 28  
U.S.C. § 1916**

ALASKA DAYSTAR, LLC, AND TODD  
LENAHAN, IN PERSONAM, THE F/V DAY  
STAR, OFFICIAL NUMBER 555992 ITS  
ENGINES, MACHINERY,  
APPURTENANCES AND CARGO, IN REM:

## Defendants.

COMES NOW the plaintiff and complains of the defendants alleging upon information and belief as follows:

1. Plaintiff, Giovanni Goscila, brings and maintains this action pursuant to 28 U.S.C. § 1333; 46 U.S.C. §§ 30103, 30104 – the Jones Act, U.S. Const. Art. III, sec. 2, and the general maritime law.

2. Plaintiff is a resident of Alaska and California. On information and belief, the in personam defendants do business in King County, Western District of Washington

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**JOHN W. MERRIAM**  
4005 20th Avenue West, Suite 110  
Seattle, Washington 98199  
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1       3. Plaintiff is a seaman and a ward of this Court and elects to take advantage of the  
2 provisions of 28 U.S.C. § 1916 to proceed without prepayment of costs or fees.

3       4. Defendant herein, Alaska Daystar, LLC, is a corporation existing under and by  
4 virtue of the laws of a state or states unknown to plaintiff and at all times herein mentioned was  
5 acting by and through its officers, agents, servants, employees and representatives, and has a  
6 principal place of business or is doing business in the Western District of Washington.

7       5. The F/V Daystar is a fishing vessel documented by the United States, official  
8 number 555992. On information and belief, said vessel will be found in the Western District of  
9 Washington during the pendency of this action. During all times herein mentioned said vessel  
10 was owned or bareboat chartered by the defendants and was engaged in maritime commerce.

11       6. At all times herein mentioned, plaintiff was employed by the defendants as a  
12 member of the crew, in the service of said vessel and was at all times acting within the course  
13 and scope of his duties as deckhand in furtherance of the mission of said vessel.

14       7. During mid-June 2019, while said vessel was in navigable waters, plaintiff was  
15 assisting in bringing a large halibut aboard the vessel, and did thereby sustain severe, painful and  
16 disabling injuries to his ribs and other injuries not fully known at this time. Plaintiff prays leave  
17 to amend this complaint when the full extent of injuries and disabilities is ascertained.

18       8. Said injuries, disabilities, and damages were directly and proximately caused by  
19 the unseaworthiness of the vessel; the negligence, in whole or in part, of the defendants and their  
20 agents, servants and employees; and the failure of the defendants to provide a reasonably safe  
21 place to work, in one or more of the following respects: The plaintiff was given insufficient  
22 mechanical or human assistance when bringing the large halibut aboard the vessel.

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1       9.     As a direct and proximate result of the foregoing, plaintiff was caused to and did  
2 incur reasonable charges for medical care and attention. Plaintiff does not know the reasonable  
3 value of said medical care and attention already rendered or to be rendered in the future and  
4 therefore, prays leave to amend this complaint to show the same.

5       10.    As a further result of the foregoing, plaintiff was rendered unable to engage in his  
6 normal and usual occupation for a period of time. Plaintiff may later be unable to engage in his  
7 normal and usual occupation and prays leave to amend this complaint to allege the full extent of  
8 said loss when the same is ascertained.

9       11.    Plaintiff demands maintenance from the defendants in a per diem amount to  
10 recuperate on land with room and board at least equal to that received on defendant's vessel,  
11 until the plaintiff reaches maximum cure or until the plaintiff is declared fit for duty, whichever  
12 last occurs. Plaintiff further demands the actual cost of cure until the plaintiff fully cured, and if  
13 never cured, plaintiff demands the cost of cure for the remainder of plaintiff's natural life.

14       12.    Maintenance and cure has been demanded and not timely paid. The failure to pay  
15 maintenance and cure has caused additional damages to the plaintiff whether or not the failure to  
16 pay was reasonable under the circumstances. Plaintiff is entitled to compensatory damages –  
17 including contingent attorney fees – for the negligent failure to pay maintenance and cure.  
18 Plaintiff is entitled to reasonable attorney fees for the arbitrary and capricious failure to pay  
19 maintenance and cure. Plaintiff is entitled to punitive damages for the willful and wanton failure  
20 to pay maintenance and cure.

21       13.    Following plaintiff's injury, defendant Todd Lenahan first refused to allow  
22 plaintiff to receive medical treatment; then threatened plaintiff with retaliation if plaintiff  
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1 pursued his rights under the maritime law. Finally, defendant Lenahan abandoned plaintiff in  
2 Dutch Harbor, AK with insufficient funds to fly home, in violation of Alaska state statute.

3       14. Plaintiff is entitled to earned and unearned wages (including bonuses and  
4 overtime) for the duration of the 2019 longlining season. Said wages have not been paid.  
5 Plaintiff is entitled to double wages under the state law of Alaska and punitive damages under  
6 federal law.

7       15. Eighty-nine (89) days following the filing of this action, plaintiff waives the  
8 physician-patient privilege, under protest, and only on condition that the Court holds that a  
9 waiver is required in this case. This waiver is made pursuant to RCW 5.60.060(4)(b), as  
10 amended by Chapter 305, Laws of 1986; as limited by the civil discovery rules. Specifically,  
11 plaintiff authorizes no ex parte contacts or inquiry to medical personnel regarding matters not  
12 reasonably calculated to lead to the discovery of admissible evidence. This waiver is made  
13 subject to plaintiff's challenge to the constitutionality of RCW 5.60.060(4)(b) on privacy  
14 grounds, and the applicability of said statute to federal causes of action brought in federal court.

15  
16       WHEREFORE, plaintiff prays judgment against the defendants as follows:

17       1. For a declaration that the plaintiff holds claim to a preferred maritime lien against  
18 the defendant vessel, her engines, machinery, appurtenances and cargo;

19       2. For arrest, condemnation and sale of the defendant vessel including her engines,  
20 machinery, appurtenances and cargo;

21       3. For general damages, including damages for loss of consortium, as are reasonable  
22 and fair;

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4. For such special damages, including found, as may be shown by the proofs herein;

5. For maintenance and cure, and for consequential and punitive damages for failure to pay same;

6. For earned and unearned wages and double wage penalties;

7. For pre-judgment interest on all claims as is in the law provided;

8. For costs of suit and reasonable attorney fees;

9. For such other and further relief, including punitive damages, as is met and just in the circumstances.

Dated this 4<sup>th</sup> day of June, 2022.

## LAW OFFICE OF JOHN MERRIAM

By: /s/ John W. Merriam  
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Attorney for Plaintiff

I am the attorney for the plaintiff in this action and have knowledge of the matters asserted in the above complaint based upon information provided by the plaintiff.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the allegations of the above complaint are true and correct to the best of my knowledge and belief.

DATED at Seattle, Washington this 4<sup>th</sup> day of June 2022.

/s/ John W. Merriam  
John W. Merriam

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